

FIFTEENTH DAY
(Friday, August 2, 1991)

The Senate met at 9:30 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brooks, Brown, Carriker, Dickson, Ellis, Glasgow, Green, Haley, Harris of Tarrant, Harris of Dallas, Henderson, Johnson, Krier, Leedom, Lucio, Lyon, Moncrief, Montford, Parker, Ratliff, Rosson, Sibley, Sims, Tejeda, Truan, Turner, Whitmire, Zaffirini.

A quorum was announced present.

The Reverend Dr. Steven E. Wright, Park Hills Baptist Church, Austin, offered the invocation as follows:

Heavenly Father, how we give You praise for the wonderful gift of life this morning! May we so live this day as to bring honor to Your name. Bless the proceedings of this assembly and its individual members. May each person gathered here today have a heart of compassion for the people of Texas as they expedite the business of Texas, our beloved State.

Help us who are deemed to be "the strong" to consistently seek to strengthen those who are weak.

Help us who are considered articulate to speak with clarity and charity for the masses we represent.

Help us who are entrusted with great power to employ our energies for ultimate good through the machinations of government.

Help us who are blessed to remember our blessings—the gift of life, the grace of living, the goal of loving—and to pass them on to others.

Help us who labor in these historic surroundings to remember the Judeo-Christian ethic and not to be swayed by those philosophies that would denigrate those foundational truths.

For this grand privilege of serving the wonderful and gracious people of the State of Texas, we thank You and we humbly acquiesce to Your leadership and guidance. In Christ's name we pray. Amen.

On motion of Senator Brooks and by unanimous consent, the reading of the Journal of the proceedings of Wednesday, July 31, 1991, was dispensed with and the Journal was approved.

CO-AUTHOR OF SENATE BILL 91

On motion of Senator Barrientos and by unanimous consent, Senator Truan will be shown as Co-author of S.B. 91.

SENATE BILLS ON FIRST READING

The following bills were introduced, read first time and referred to the Committee indicated:

S.B. 12 by Johnson	Committee of the Whole Senate
Relating to the apportionment of the state into congressional districts.	

S.B. 93 by Sims	Natural Resources
Relating to the authority of a county to regulate the use of certain weapons in the unincorporated area of a county; providing a penalty.	

CAPITOL PHYSICIAN

Senator Henderson was recognized and presented Dr. E. P. Descant II of Tomball as the "Doctor for the Day."

The Senate welcomed Dr. Descant and thanked him for his participation in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians.

MESSAGE FROM THE GOVERNOR

The following Message from the Governor was read and was filed with the Secretary of the Senate:

**P R O C L A M A T I O N
BY THE
GOVERNOR OF THE STATE OF TEXAS**

TO ALL TO WHOM THESE PRESENTS SHALL COME:

TO THE MEMBERS OF THE SENATE AND
THE HOUSE OF REPRESENTATIVES OF THE
SEVENTY-SECOND TEXAS LEGISLATURE IN FIRST CALLED SESSION:

Pursuant to Article III, Section 40, and Article IV, Section 8 of the Texas Constitution, I, Ann W. Richards, Governor of Texas, do hereby submit the following matter for consideration by the Seventy-second Texas Legislature in its First Called Session:

Legislation providing for the authorization and operation of a state lottery.

Legislation providing for the redistricting of the State Board of Education.

Legislation providing for the redistricting of the members of the House of Representatives of the Congress of the United States.

Legislation providing for appropriations for the operation of state government for the 1992-93 biennium.

The Secretary of State shall take notice of this action and notify the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the seal of the State to be affixed hereto at Austin, this 1st day of August, 1991.

/s/Ann W. Richards
Governor of Texas

Attest:

/s/John Hannah, Jr.
Secretary of State

SENATE RESOLUTION 89

Senator Sims offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to extend best wishes to William "Wills" Ross Setzler IV on the joyous occasion of his third birthday; and
WHEREAS, Born on August 3, 1988, Wills has been a blessing to his parents, Sue Ann and Ross Setzler; and

WHEREAS, With a love for animals and playing cowboys with his best friend and closest cousin, Jacob, this fine young boy shows great promise as a Texas rancher; and

WHEREAS, Fearless, Wills loves pretending he is riding a bull; and

WHEREAS, In his three short years, he has captured the hearts of all who know him, especially his grandparents, Senator Bill and Sue Sims and Bill and Jan Setzler; and

WHEREAS, It is indeed a pleasure for the Texas Senate to recognize Wills on this special day; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 72nd Legislature, 1st Called Session, hereby wish William Ross Setzler IV a happy third birthday; and, be it further

RESOLVED, That a copy of this Resolution be prepared for Wills as an expression of high regard from the Texas Senate.

The resolution was read.

On motion of Senator Truan and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Sims, the resolution was adopted by a viva voce vote.

RESOLUTION SIGNED

The President announced the signing in the presence of the Senate the following enrolled resolution:

S.C.R. 9

SESSION TO CONSIDER EXECUTIVE APPOINTMENTS

The President announced the time had arrived to consider the Executive appointments to agencies, boards and commissions. Notice of submission of these names for consideration was given Wednesday, July 31, 1991, by Senator Barrientos.

Senator Barrientos moved confirmation of the nominees reported Wednesday, July 31, 1991, by the Committee on Nominations.

The President asked if there were requests to sever nominees.

There were no requests offered.

NOMINEES CONFIRMED

The following nominees as reported by the Committee on Nominations were confirmed by the following vote: Yeas 29, Nays 0.

Absent: Bivins, Lyon.

Members, Texas Board on Aging: JOSE E. CAMACHO, Travis County; J. KENNETH HUFF, SR., Grayson County; DAN ROBERTS, Tarrant County; MS. ALICEANNE WALLACE, Bell County.

Member, Texas Alcoholic Beverage Commission: MS. RENEE HIGGINBOTHAM-BROOKS, Tarrant County.

Member, Board of Directors, State Bar of Texas: MRS. JESSE CARRASCO, El Paso County.

Member, Board of Trustees of the Employees Retirement System of Texas: SPEAKER BYRON M. TUNNELL, Travis County.

Member, Texas High-Speed Rail Authority: HENRY RUBEN MUNOZ III, Bexar County.

Member, Board of Trustees of the Teacher Retirement System of Texas: DR. DANA WILLIAMS, Nueces County.

Judge of the 151st Judicial District Court of Harris County: MS. CAROLYN CLAUSE GARCIA, Harris County.

Members, Board of Directors, Nueces River Authority: EDWARD M. "TED" JONES, Nueces County; BOB MULLEN, Nueces County.

MESSAGE FROM THE HOUSE

House Chamber
August 2, 1991

HONORABLE BOB BULLOCK
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

S.C.R. 4, Honoring the veterans of the United States Armed Forces.

S.C.R. 5, Expressing appreciation to all who contributed to the preservation of the Texas Heroes Monument.

S.C.R. 7, Commending the Washington-on-the-Brazos State Park Association for its efforts regarding the association's plans to reconstruct the old village of Washington.

H.C.R. 12, Commending Eric Johnson for his achievements and extending to him best wishes for continued success in the future.

H.C.R. 13, Congratulating the Hutto Lutheran Church on the occasion of its 100th anniversary.

H.C.R. 14, Commending Amy Howerton.

H.C.R. 15, In memory of Jeffery Dean Ginn.

H.C.R. 18, Paying tribute to all the individuals who have been honored by receiving the Purple Heart and commending the members of the Military Order of the Purple Heart for their exemplary contributions.

H.C.R. 21, Commending James R. Vasquez on his contributions to the field of public education.

H.C.R. 22, Congratulating E. Max Harris on the occasion of his retirement.

Respectfully submitted,

BETTY MURRAY, Chief Clerk
House of Representatives

COMMITTEE SUBSTITUTE HOUSE BILL 4 ON SECOND READING

On motion of Senator Glasgow and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 4, Relating to the functions, including licensing functions, and reorganization of state agencies; providing penalties.

The bill was read second time.

(Senator Haley in Chair)

Senator Glasgow offered the following amendment to the bill:

Floor Amendment No. 1

Amend C.S.H.B. 4 as follows:

(1) In SECTION 1.04 of the bill, in Section 1, Article 9101, Revised Statutes, as added by this Act, strike "(1) "Agency" means a commission, board, agency, program, or other body listed in Section 7 of this article." (page 2, lines 2 and 3, committee printing) and substitute the following:

"(1) "Agency" means an agency, commission, board, or other governmental body that performs regulatory functions under a law or program listed in Section 7 of this article."

(2) In SECTION 1.04 of the bill, in Section 1, Article 9101, Revised Statutes, as added by this Act, strike "(2) "Director" means the executive director of the Texas Department of Licensing and Regulation." (page 2, lines 4 and 5, committee printing) and substitute the following:

"(2) "Director" means the commissioner of licensing and regulation."

(3) In SECTION 1.04 of the bill, in Section 1, Article 9101, Revised Statutes, as added by this Act, add a new, appropriately numbered subdivision to read as follows:

"() "Commissioner" means the commissioner of licensing and regulation."

(4) In SECTION 1.04 of the bill, in Section 3(c)(5), Article 9101, Revised Statutes, as added by this Act, strike "as required" (page 3, line 35, committee printing).

(5) In SECTION 1.04 of the bill, in Section 8, Article 9101, Revised Statutes, as added by this Act, between "Licensing and Regulation" and "are subject to" (page 7, line 1, committee printing), insert "that are not listed in Section 7 of this article".

(6) In SECTION 1.04 of the bill, in Section 12(b), Article 9101, Revised Statutes, as added by this Act, strike "related or similar occupations together" (page 7, lines 60 and 61, committee printing) and substitute "at the same location the agencies that regulate related or similar laws or programs."

(7) In SECTION 1.04 of the bill, in Sections 12(b) and (c), Article 9101, Revised Statutes, as added by this Act, strike "department of general services" (page 7, lines 58 and 62, committee printing) and substitute "General Services Commission".

(8) In SECTION 1.04 of the bill, in Section 12(c), Article 9101, Revised Statutes, as added by this Act, strike the second reference to "department" (page 7, line 64, committee printing) and substitute "commission".

(9) Strike SECTION 1.48 of the bill (page 13, lines 8 through 15, committee printing) and renumber the following sections of the bill accordingly.

(10) In SECTION 1.67(a)(1) of the bill, strike "as provided" (page 20, line 23, committee printing) and substitute "for the functions, programs, activities, and obligations of the department".

(11) In SECTION 1.73(b) of the bill, strike "regulation of the water saving performance standards functions and" (page 23, lines 20 and 21, committee printing).

(12) In SECTION 1.77(a) of the bill, strike "executive director of the Texas Department of Licensing and Regulation" (page 23, lines 50 and 51, committee printing), and substitute "commissioner of licensing and regulation".

(13) In SECTIONS 1.77(c), (d), and (e) of the bill, strike “executive director” (page 24, lines 3 and 4, 5, 9, and 11, committee printing) and substitute “commissioner”.

(14) In SECTION 1.77(d) of the bill, strike “executive director’s” (page 24, line 10, committee printing) and substitute “commissioner’s”.

(15) In SECTION 1.67 of the bill, correct the internal section references as appropriate after the sections of the bill are renumbered.

The amendment was read and was adopted by a viva voce vote.

Senator Glasgow offered the following amendment to the bill:

Floor Amendment No. 2

Amend C.S.H.B. 4 as follows:

Delete page 5, lines 66 through 68.

Delete page 12, Section 1.41, lines 23-30 of the bill and renumber.

The amendment was read and was adopted by a viva voce vote.

Senator Brooks offered the following amendment to the bill:

Floor Amendment No. 3

Amend Section 1.67(b) of Article 1 of C.S.H.B. 4 by striking the period (“.”) at the end thereof and adding the following:

“; provided, however, that the provisions of Subsection 2(d) of Article 9101, Revised Statutes, shall apply to rules of the Texas State Board of Examiners of Dietitians.”

The amendment was read and was adopted by a viva voce vote.

Senator Ratliff offered the following amendment to the bill:

Floor Amendment No. 4

Amend C.S.H.B. 4 as follows:

(1) On page 2, line 26, insert the following language after “functions” and before the period: “as provided in Section 4.”

(2) On page 2, line 27, strike Subsection b and substitute the following:

(b) The functions transferred to the department by Subsection (a) of this section are of an administrative and investigative nature. The transfer of functions does not authorize the department to make any decision about whether a property acquisition should be made by an agency and does not authorize the department to make personnel decisions regarding agency employees assigned to carry out the policy or regulatory functions of an agency such as the hiring, transfer, termination of employment, or discipline of an employee. The director may make personnel decisions of that type regarding an agency employee assigned to perform any functions described by Subsection (a) of this section.

(3) On page 3, line 41, strike Section 4 and substitute the following:

Sec. 4. FUNCTIONS RELATED TO AGENCY BUDGETS. At the appropriate time in each state fiscal biennium, each agency shall prepare its recommended budget covering the agency’s functions under the laws and programs subject to this article and shall submit that recommendation to the director. The director shall present the consolidated budgets for the laws and programs subject to this article, along with the recommended budget for the department, to the Legislative Budget Board and the appropriate committees of the legislature.

(4) On page 3, line 65, strike Subsections (b) and (c) and substitute the following:

(b) An agency shall set its fees in amounts that will produce the amount of the revenue determined under Subsection (a) of this section. The director must certify to the comptroller of public accounts that the agency's fee schedule will adequately produce the revenues before the agency may expend any funds appropriated to the agency.

(c) This section does not authorize an agency to set a fee in an amount that is not otherwise permitted by law. If the fee schedule permitted by law is inadequate to produce adequate revenue, the director shall report that fact to the Legislative Budget Board and the presiding officer of each house of the legislature and shall request that legislation be prepared to authorize the necessary revenue.

The amendment was read.

On motion of Senator Glasgow, the amendment was tabled by the following vote: Yeas 22, Nays 7.

Yeas: Armbrister, Carriker, Dickson, Ellis, Glasgow, Green, Haley, Harris of Tarrant, Henderson, Johnson, Krier, Leedom, Lucio, Moncrief, Montford, Parker, Rosson, Tejada, Truan, Turner, Whitmire, Zaffirini.

Nays: Barrientos, Brooks, Brown, Harris of Dallas, Ratliff, Sibley, Sims.

Absent: Bivins, Lyon.

Senator Sibley offered the following amendment to the bill:

Floor Amendment No. 5

Amend C.S.H.B. 4 as follows:

(1) In SECTION 1.04 of the bill, in the added Section 7 of Article 9101, Revised Statutes, between Subdivisions (64) and (65) (Committee Printing, page 6, between lines 60 and 61), insert a new appropriately numbered subdivision to read as follows and renumber the following subdivisions accordingly:

"() the law regulating the practice of law, State Bar Act, Chapter 81, Government Code, and the law governing the licensing of attorneys, Chapter 82, Government Code;"

(2) Immediately after SECTION 1.55 of the bill (Committee Printing, page 14, between lines 7 and 8), add two appropriately numbered sections to read as follows:

SECTION . Chapter 81, Government Code, is amended by adding Section 81.004 to read as follows:

Sec. 81.004. CERTAIN FUNCTIONS TRANSFERRED. Certain functions relating to the administration of this chapter are performed in accordance with Article 9101, Revised Statutes. To the extent of a conflict between this chapter and Article 9101, Revised Statutes, that article controls.

SECTION . Chapter 82, Government Code, is amended by adding Section 82.0011 to read as follows:

Sec. 82.0011. CERTAIN FUNCTIONS TRANSFERRED. Certain functions relating to the administration of this chapter are performed in accordance with Article 9101, Revised Statutes. To the extent of a conflict between this chapter and Article 9101, Revised Statutes, that article controls.

(3) Renumber the sections of Article 1 of the bill appropriately and correct internal section references appropriately.

The amendment was read.

On motion of Senator Glasgow, the amendment was tabled by the following vote: Yeas 24, Nays 6.

Yeas: Armbrister, Barrientos, Brooks, Brown, Carriker, Dickson, Ellis, Glasgow, Green, Haley, Harris of Tarrant, Harris of Dallas, Henderson, Johnson, Lucio, Moncrief, Montford, Parker, Rosson, Tejada, Truan, Turner, Whitmire, Zaffirini.

Nays: Bivins, Krier, Leedom, Ratliff, Sibley, Sims.

Absent: Lyon.

Senator Brown offered the following amendment to the bill:

Floor Amendment No. 6

Amend C.S.H.B. 4, on page 1, Article 1, starting on line 42, by deleting SECTION 1.02 in its entirety and renumbering the subsequent sections accordingly.

The amendment was read.

On motion of Senator Glasgow, the amendment was tabled by the following vote: Yeas 21, Nays 10.

Yeas: Armbrister, Barrientos, Brooks, Carriker, Dickson, Ellis, Glasgow, Green, Haley, Johnson, Lucio, Lyon, Moncrief, Montford, Parker, Rosson, Tejada, Truan, Turner, Whitmire, Zaffirini.

Nays: Bivins, Brown, Harris of Tarrant, Harris of Dallas, Henderson, Krier, Leedom, Ratliff, Sibley, Sims.

(President in Chair)

Senator Barrientos offered the following amendment to the bill:

Floor Amendment No. 7

Amend C.S.H.B. 4 by deleting Article 14 in its entirety and renumbering the remaining sections appropriately.

The amendment was read and was adopted by a viva voce vote.

Senator Leedom offered the following amendment to the bill:

Floor Amendment No. 8

Amend C.S.H.B. 4 by striking Section 1.71 in its entirety and renumbering the remaining sections accordingly.

The amendment was read.

On motion of Senator Glasgow, the amendment was tabled by the following vote: Yeas 29, Nays 1, Present-not voting 1.

Yeas: Armbrister, Barrientos, Bivins, Brooks, Brown, Carriker, Dickson, Ellis, Glasgow, Green, Haley, Harris of Tarrant, Harris of Dallas, Henderson, Johnson, Lucio, Lyon, Moncrief, Montford, Parker, Ratliff, Rosson, Sibley, Sims, Tejada, Truan, Turner, Whitmire, Zaffirini.

Nays: Leedom.

Present-not voting: Krier.

Senator Green offered the following amendment to the bill:

Floor Amendment No. 9

Amend C.S.H.B. 4 as follows:

(1) Strike SECTION 1.56 of the bill (page 14, lines 8 through 40, committee printing) and substitute the following appropriately numbered section:

"SECTION ____ Section 3, The Plumbing License Law (Article 6243-101, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 3. ACTS PERMITTED WITHOUT A LICENSE. The following acts, work and conduct shall be expressly permitted without license:

(a) Plumbing work done by a property owner in a building owned or occupied by him as his homestead;

(b) Plumbing work that is not connected to a public water system and that is done outside the municipal limits of any organized city, town or village in this state, or within any such city, town or village of less than five thousand (5,000) inhabitants, unless required by ordinance in such city, town or village of less than five thousand (5,000) inhabitants;

(c) Plumbing work done by anyone who is regularly employed as or acting as a maintenance man or maintenance engineer, incidental to and in connection with the business in which he is employed or engaged, and who does not engage in the occupation of a plumber for the general public; construction, installation and maintenance work done upon the premises or equipment of a railroad by an employee thereof who does not engage in the occupation of a plumber for the general public; and plumbing work done by persons engaged by any public service company in the laying, maintenance and operation of its service mains or lines to the point of measurement and the installation, alteration, adjustment, repair, removal and renovation of all types of appurtenances, equipment and appliances, including doing all that is necessary to render the appliances useable or serviceable; appliance installation and service work done by anyone who is an appliance dealer or is employed by an appliance dealer, and acting as an appliance installation man or appliance service man in connecting appliances to existing piping installations; water treatment installations, exchanges, services, or repairs. Provided, however, that all work and service herein named or referred to shall be subject to inspection and approval in accordance with the terms of all local valid city or municipal ordinances;

(d) Plumbing work done by a licensed irrigator or licensed installer when working and licensed under Chapter 197, Acts of the 66th Legislature, Regular Session, 1979 (Article 8751, Vernon's Texas Civil Statutes). A person holding a valid license from the Texas State Board of Plumbing Examiners shall not be required to be licensed by any other board or agency when installing or working on a lawn irrigation system;

(e) Plumbing work done by an LP Gas installer when working and licensed under Chapter 113, Natural Resources Code, as amended."

(2) In SECTION 1.57 of the bill, in added Section 5(f), The Plumbing License Law (Article 6243-101, Vernon's Texas Civil Statutes), strike "(1) the irrigators law, Chapter 197, Acts of the 66th Legislature, 1979 (Article 8751, Vernon's Texas Civil Statutes);" (page 14, lines 46 and 47, committee printing) and renumber the following subdivisions of that section accordingly.

(3) Strike SECTIONS 1.58 and 1.59 of the bill (page 14, lines 53 through 65, committee printing) and substitute the following appropriately numbered sections:

"SECTION ____ The Plumbing License Law (Article 6243-101, Vernon's Texas Civil Statutes) is amended by adding Section 5B to read as follows:

Sec. 5B. ADOPTION OF PLUMBING CODES. (a) To protect the health and safety of the citizens of this state, the Board shall adopt both the Southern Standard Plumbing Code and the Uniform Plumbing Code.

(b) In adopting standards for the proper design, installation, and maintenance of a plumbing system, a city, town, or village of this state may not adopt standards less stringent than the minimum standards established by the codes adopted by the Board.

SECTION ____ The Plumbing License Law (Article 6243-101, Vernon's Texas Civil Statutes) is amended by adding Section 11A to read as follows:

Sec. 11A. PLUMBING LICENSE ENDORSEMENTS. (a) The Board by rule shall provide for the endorsement of a license issued to a person licensed under this Act including an endorsement to act as:

- (1) a backflow prevention device tester; or
- (2) a medical gas system tester.

(b) The Board shall issue an endorsement under this section to a license holder who has successfully completed an examination administered by the Board and has paid the fees required for endorsement under Section 13 of this Act.

SECTION ____ Section 13, The Plumbing License Law (Article 6243-101, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 13. FEES. (a) The Board shall establish reasonable and necessary fees for the administration of this Act, including fees for the following licenses in amounts not to exceed:

Master Plumber	
Examination	\$ 75
License	75
Renewal	75
Journeyman Plumber	
Examination	50
License	50
Renewal	50
Plumbing Inspector	
Examination	25
License	50
Renewal	50

(b) The Board shall not maintain unnecessary fund balances, and fee amounts shall be set in accordance with this requirement."

(4) Strike Subsection (a), SECTION 1.73 of the bill (page 23, lines 7 through 17, committee printing).

(5) In SECTION 1.73 of the bill, strike "(b)" (page 23, line 18, committee printing).

(6) Strike SECTION 1.74 of the bill (page 23, lines 34 through 39, committee printing) and renumber the following sections of the bill accordingly.

(7) In SECTION 1.66 of the bill, correct the internal section references as appropriate after sections of the bill are renumbered.

GREEN
BROOKS

The amendment was read.

On motion of Senator Moncrief, the amendment was tabled by the following vote: Yeas 22, Nays 8.

Yeas: Armbrister, Bivins, Brown, Carriker, Dickson, Ellis, Glasgow, Haley, Harris of Tarrant, Henderson, Krier, Leedom, Lucio, Lyon, Moncrief, Montford, Parker, Ratliff, Rosson, Sims, Truan, Turner.

Nays: Barrientos, Brooks, Green, Johnson, Sibley, Tejeda, Whitmire, Zaffirini.

Absent: Harris of Dallas.

Senator Ratliff offered the following amendment to the bill:

Floor Amendment No. 10

Amend C.S.H.B. 4 in Article 8, Section 8.02 (page 68, between lines 37 and 38) by adding a new Subsection (v) to read as follows:

(v) The Underground Storage Tank Advisory Committee is abolished and Section 10, Chapter 244, Acts of the 71st Legislature, Regular Session, is repealed.

The amendment was read and was adopted by a viva voce vote.

Senator Carriker offered the following amendment to the bill:

Floor Amendment No. 11

Amend C.S.H.B. 4 as follows:

Amend Article 9101, Section 3, Investigations, by adding a new Subsection (e) to read as follows:

"(e) The agencies may recommend to the director minimum standards for qualifications for division staff performing investigations."

The amendment was read and was adopted by a viva voce vote.

Senator Brooks offered the following amendment to the bill:

Floor Amendment No. 12

Amend C.S.H.B. 4 by adding a new SECTION _____ to read as follows:

SECTION _____. Section 11(d), Psychologists' Certification and Licensing Act (Article 4512c, Vernon's Texas Civil Statutes), is amended to read as follows:

(d) In addition to the requirements of Subsection (b) or (c) of this section, the applicant must meet the following qualifications:

- (1) the applicant has attained the age of majority;
- (2) the applicant is of good moral character;
- (3) in the judgment of the Board, the applicant is physically and mentally competent to render psychological services with reasonable skill and safety and is afflicted with no disease or condition, either mental or physical, which would impair competency to render psychological services; and
- (4) the applicant:
 - (A) has not been convicted of a felony or a crime involving moral turpitude;
 - (B) does not use drugs or intoxicating liquors to an extent that affects the applicant's professional competency;
 - (C) has not been guilty of fraud or deceit in making the application;
 - (D) except as provided by Section 15B of this Act, has not aided or abetted a person, not a licensed psychologist, in representing that person as a psychologist in this state;
 - (E) except as provided by Section 15B of this Act, has not represented himself or herself to be a psychologist licensed in this state at a time he or she was not licensed to practice psychology in this state, or practiced psychology in this state without a license to practice psychology in this state.

The amendment was read and was adopted by a viva voce vote.

Senator Sims offered the following amendment to the bill:

Floor Amendment No. 13

Amend C.S.H.B. 4 by adding the following:

Delete ARTICLE 20. Renumber articles accordingly.

The amendment was read and was adopted by a viva voce vote.

Senator Glasgow offered the following amendment to the bill:

Floor Amendment No. 14

Amend C.S.H.B. 4 by adding a new Article, appropriately numbered and titled, to read as follows:

ARTICLE ____.

Sec. _____. GOVERNOR'S TRANSITION PLAN. The governor's office shall coordinate and oversee the transfer of authority from the secretary of state to the Texas Ethics Commission under S.B. 1, Acts of the 72nd Legislature, Regular Session, 1991.

The amendment was read and was adopted by a viva voce vote.

(Senator Moncrief in Chair)

Senator Barrientos offered the following amendment to the bill:

Floor Amendment No. 15

Amend C.S.H.B. 4 by adding the following appropriately numbered article:

ARTICLE _____. COMMUNITY DEVELOPMENT
BLOCK GRANT PROGRAM

SECTION _____.01. Article 4413(501), Revised Statutes, as added by Chapter 762, Acts of the 72nd Legislature, Regular Session, 1991, is amended by adding Sections 2.06, 2.07, 2.08, 2.09, and 2.10 to read as follows:

Sec. 2.06. ADMINISTRATION OF COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM. The department, through the community affairs division, shall, under the federal Omnibus Budget Reconciliation Act of 1981 (Pub. L. No. 97-35) and 24 CFR, Part 570, Subpart I, administer the state's allocation of federal funds provided under the community development block grant nonentitlement program authorized by Title I of the Housing and Community Development Act of 1974 (42 U.S.C. Section 5301 et seq.).

Sec. 2.07. ALLOCATION RULES. Community development block grant program funds shall be allocated to eligible counties and municipalities according to department rules.

Sec. 2.08. ALLOCATION SHARING. The department may enter into interagency agreements with the Texas Department of Commerce to transfer not more than 20 percent of the federal funds received by the department to the Texas Department of Commerce to be used for economic development. The federal funds transferred to the Texas Department of Commerce include the amount of federal funds to be used for administrative expenses in accordance with federal law. Any income generated from the economic development programs of the Texas Department of Commerce remain with that agency. The use of funds transferred to the Texas Department of Commerce under this section must be approved by the department, and all rules of the Texas Department of Commerce relating to the funds transferred under this section must be approved by the department.

Sec. 2.09. UNUSED FEDERAL FUNDS. Any federal funds transferred under Section 2.08 of this article to the Texas Department of Commerce that are

not used on a timely basis, as specified by federal guidelines, shall be returned to the department under the terms of an interagency agreement.

Sec. 2.10. STATE COMMUNITY DEVELOPMENT REVIEW COMMITTEE. (a) The state community development review committee consists of 12 members, appointed by the governor, each of whom must be a member of the governing body of a county or municipality eligible for funding under the program or a supervisory-level county or municipal employee whose regular duties include involvement in community development activities. The number of county officials on the committee, expressed as a ratio of all committee members, may not exceed the number of counties eligible for funding under the community development block grant program, expressed as a ratio of all eligible applicants.

(b) The chairman of the committee shall be designated by the governor and serve at the governor's pleasure.

(c) Members of the committee serve two-year terms expiring February 1 of each odd-numbered year. If a vacancy occurs on the committee, the governor shall appoint a new member to fill the remaining portion of the unexpired term.

(d) Committee members serve without compensation for services on the committee but are entitled to be reimbursed for reasonable and necessary expenses incurred in performing their duties. Service on the committee by officers and employees of counties and municipalities is considered as an additional duty of their office or employment and may not be construed as dual officeholding.

(e) The committee shall meet at least twice annually at the call of the director.

(f) The committee shall:

(1) consult with and advise the director on the administration and enforcement of the program; and

(2) review applications submitted by counties and municipalities eligible for funding under the program and advise and assist the director with respect to the allocation of program funds to those applicants.

(g) The committee may recommend annually to the director a formula for allocation of funds to each geographic state planning region established by the governor as provided by Chapter 391, Local Government Code. The formula must give preference to regions according to the regions' needs.

SECTION ____02. Subchapter N, Chapter 481, Government Code, is repealed.

SECTION ____03. (a) This article takes effect January 1, 1992, and on that date the powers, duties, and obligations of the Texas Department of Commerce relating to the community development block grant program, other than the authority to administer funds of the program for existing and future economic development programs of the department, are transferred to the Texas Department of Housing and Community Affairs. On January 1, 1992, the Texas Department of Commerce shall transfer all property of the department relating to the powers, duties, and obligations being transferred and all records relating to the powers, duties, and obligations being transferred in its custody to the Texas Department of Housing and Community Affairs.

(b) On the transfer of all property and records under Subsection (a) of this section:

(1) a rule, form, or policy adopted by the Texas Department of Commerce relating to the powers, duties, and obligations being transferred becomes a rule, form, or policy of the Texas Department of Housing and Community Affairs; and

(2) a contract made by the Texas Department of Commerce relating to the powers, duties, and obligations being transferred becomes a contract made by the Texas Department of Housing and Community Affairs.

(c) On January 1, 1992, all funds appropriated to the Texas Department of Commerce for the powers, duties, and obligations related to the community development block grant program that are being transferred are transferred to the Texas Department of Housing and Community Affairs.

(d) On January 1, 1992, all personnel employed by the Texas Department of Commerce for the administration of the powers, duties, and obligations related to the community development block grant program that are being transferred are transferred to the Texas Department of Housing and Community Affairs.

(e) On January 1, 1992, the state community development review committee established by Section 481.193, Government Code, repealed by this article, shall transfer all property and records in its custody to the state community development review committee created by Section 2.10, Article 4413(501), Revised Statutes, as added by this article, and on that transfer the state community development review committee established by Section 481.193, Government Code, is abolished.

The amendment was read and was adopted by a viva voce vote.

Senator Harris of Tarrant offered the following amendment to the bill:

Floor Amendment No. 16

Amend C.S.H.B. 4 by adding the following appropriately numbered section to Article 1:

SECTION _____. Section 11, The Property Taxation Professional Certification Act (Article 8885, Revised Statutes), is amended to read as follows:

Sec. 11. (a) The following persons shall register with the board:

(1) all chief appraisers, appraisal supervisors and assistants, property tax appraisers, appraisal engineers, and other persons with authority to render judgment on, recommend, or certify appraised values to the appraisal review board of an appraisal district;

(2) the tax assessor-collector, tax collector, or other person designated by the governing body of a taxing unit as the chief administrator of the unit's assessment functions, collections functions, or both; and other persons who perform assessment or collections functions for the unit whom the chief administrator of the unit's tax office requires to register; and

(3) all persons engaged in appraisals of real or personal property for ad valorem tax purposes for an appraisal district or a taxing unit.

(b) A tax assessor-collector in a county with a population of more than one million according to the most recent federal decennial census need not register with the board prior to September 1, 1993.

The amendment was read and was adopted by a viva voce vote.

Senator Montford offered the following amendment to the bill:

Floor Amendment No. 17

Amend C.S.H.B. 4 by deleting Article 19 in its entirety and substituting the following:

**ARTICLE 19. PUBLIC UTILITY
REGULATORY ACT PROVISIONS**

SECTION 19.01. Sections 3(c), (e), and (k), Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), as amended by S.B. 1049, Acts of the 72nd Legislature, Regular Session, 1991, are amended to read as follows:

(c) The term "public utility" or "utility," when used in this Act, includes any person, corporation, river authority, cooperative corporation, or any combination thereof, other than a municipal corporation, a telephone cooperative corporation,

or a water supply or sewer service corporation, or their lessees, trustees, and receivers, now or hereafter owning or operating for compensation in this state equipment or facilities for:

(1) producing, generating, transmitting, distributing, selling, or furnishing electricity ("electric utilities" hereinafter) provided, however, that this definition shall not be construed to apply to or include a qualifying small power producer or qualifying cogenerator, as defined in Sections 3(17)(D) and 3(18)(C) of the Federal Power Act, as amended (16 U.S.C. Sections 796(17)(D) and 796(18)(C));

(2)(A) the conveyance, transmission, or reception of communications over a telephone system as a dominant carrier as hereinafter defined ("telecommunications utilities" hereinafter); provided that no person or corporation not otherwise a public utility within the meaning of this Act shall be deemed such solely because of the furnishing or furnishing and maintenance of a private system or the manufacture, distribution, installation, or maintenance of customer premise communications equipment and accessories; and provided further that nothing in this Act shall be construed to apply to telegraph services, television stations, radio stations, community antenna television services, or radio-telephone services that may be authorized under the Public Mobile Radio Services rules of the Federal Communications Commission, other than such radio-telephone services provided by wire-line telephone companies under the Domestic Public Land Mobile Radio Service and Rural Radio Service rules of the Federal Communications Commission; and provided further that interexchange telecommunications carriers (including resellers of interexchange telecommunications services), specialized communications common carriers, other resellers of communications, other communications carriers who convey, transmit, or receive communications in whole or in part over a telephone system, and providers of operator services as defined in Section 18A(a) of this Act (except that subscribers to customer-owned pay telephone service shall not be deemed to be telecommunications utilities) who are not dominant carriers are also telecommunications utilities, but the commission's regulatory authority as to them is only as hereinafter defined;

(B) "dominant carrier" when used in this Act means (i) a provider of any particular communication service which is provided in whole or in part over a telephone system who as to such service has sufficient market power in a telecommunications market as determined by the commission to enable such provider to control prices in a manner adverse to the public interest for such service in such market; and (ii) any provider of local exchange telephone service within a certificated exchange area as to such service. A telecommunications market shall be statewide until January 1, 1985. After this date the commission may, if it determines that the public interest will be served, establish separate markets within the state. Prior to January 1, 1985, the commission shall hold such hearings and require such evidence as is necessary to carry out the public purpose of this Act and to determine the need and effect of establishing separate markets. Any such provider determined to be a dominant carrier as to a particular telecommunications service in a market shall not be presumed to be a dominant carrier of a different telecommunications service in that market.

(3) The term "public utility" or "utility" shall not include any person or corporation not otherwise a public utility that furnishes the services or commodity described in any paragraph of this subsection only to itself, its employees, or tenants as an incident of such employee service or tenancy, when such service or commodity is not resold to or used by others. The term "electric utility" shall not include any person or corporation not otherwise a public utility that owns or operates in this state equipment or facilities for producing, generating, transmitting, distributing, selling, or furnishing electric energy to an electric utility,

if the equipment or facilities are used primarily for the production and generation of electric energy for consumption by the person or corporation. The term "public utility," "utility," or "electric utility" does ~~shall~~ not include any person or corporation not otherwise a public utility that owns or operates in this state a recreational vehicle park that provides metered electric service in accordance with Article 1446d-2, Revised Statutes. A recreational vehicle park owner is considered a public utility if the owner fails to comply with Article 1446d-2, Revised Statutes, with regard to the metered sale of electricity at the recreational vehicle park.

(e) The word "commission," when used in this Act, means the Railroad ~~[Public Utility] Commission of Texas~~ ~~[as hereinafter constituted]~~.

(k) "Commissioner" means a member of the Railroad ~~[Public Utility] Commission of Texas~~.

SECTION 19.02. Section 5, Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 5. The Public Utility Commission of Texas is abolished. The functions of the public utility commission are transferred to the Railroad Commission of Texas. A reference in a law to the Public Utility Commission of Texas means the Railroad Commission of Texas [A commission, to be known as the "Public Utility Commission of Texas" is hereby created. It shall consist of three commissioners, who shall be appointed to staggered, six-year terms by the governor, with the advice and consent of two-thirds of the members of the senate present, and who shall have and exercise the jurisdiction and powers herein conferred upon the commission. Each commissioner shall hold office until his successor is appointed and qualified. At its first meeting following the biennial appointment and qualification of a commissioner, the commission shall elect one of the commissioners chairman. Appointments to the commission shall be made without regard to the race, creed, sex, religion, or national origin of the appointees].

SECTION 19.03. Section 6, Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), is amended by amending Subsection (a) and adding Subsections (l) and (m) to read as follows:

(a) ~~[To be eligible for appointment as a commissioner, a person must be a qualified voter, not less than 30 years of age, a citizen of the United States, and a resident of the State of Texas.] No person is eligible for the office of [appointment as a] commissioner if at any time during the two-year period immediately preceding his election [appointment] he personally served as an officer, director, owner, employee, partner, or legal representative of any public utility or any affiliated interest, or he owned or controlled, directly or indirectly, stocks or bonds of any class with a value of \$10,000, or more in a public utility or any affiliated interest. [Each commissioner shall qualify for office by taking the oath prescribed for other state officers and shall execute a bond for \$5,000 payable to the state and conditioned on the faithful performance of his duties.] A person who is required to register as a lobbyist under Chapter 305, Government Code, may not serve as a member of the commission or public utility counsel or act as the general counsel to the commission.~~

(l) No person holding office as a Railroad Commissioner and no candidate for the office of Railroad Commissioner and no political committee of a candidate for the office of Railroad Commissioner shall accept a contribution from any regulated gas utility or public utility or person or political committee acting on behalf of such utility totalling more than \$1,000 per calendar year.

(m) Nothing contained in this section shall be construed to prevent any person who may be employed by a gas utility or public utility from voluntarily making a campaign contribution from that person's personal funds to or on behalf of a person holding office as a Railroad Commissioner or to or on behalf of a candidate for the office of Railroad Commissioner or to or on behalf of a political committee of any

such candidate. Such contributions shall not exceed \$100 per calendar year. It shall be unlawful and a violation of this section for any gas utility or public utility to require another by coercive action to make any such contribution.

SECTION 19.04. Section 20, Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 20. UTILITIES OWNED BY MUNICIPALITIES OR TELEPHONE COOPERATIVE CORPORATIONS ~~[MUNICIPALLY OWNED UTILITIES]~~. Except as provided by this Act, nothing ~~[Nothing]~~ in this article shall be construed to confer on the commission power or jurisdiction to:

(1) regulate or supervise the rates or service of any utility owned and operated by any municipality within its boundaries either directly or through a municipally owned corporation;

(2) ~~[-or to]~~ affect or limit the power, jurisdiction, or duties of the municipalities that have elected to regulate and supervise public utilities within their boundaries; or

(3) regulate or supervise the rates or service of a telephone cooperative corporation~~], except as provided in this Act~~.

(b) Telephone cooperative corporations remain subject to the power and jurisdiction of the commission for the following purposes:

(1) for the commission to establish and maintain rates, terms, and conditions applicable to access services provided by the corporations and statewide average long distance toll rates for interexchange telecommunications services provided by the corporations; and

(2) for the commission to ensure compliance and inclusion under Articles VII and XIV of this Act.

SECTION 19.05. The heading of Article IV, Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), is amended to read as follows:

ART. IV. MUNICIPALITIES AND TELEPHONE COOPERATIVE CORPORATIONS

SECTION 19.06. Article IV, Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), is amended by adding Sections 25A and 26A to read as follows:

Sec. 25A. TELEPHONE COOPERATIVE CORPORATIONS. A telephone cooperative corporation may appear or intervene as a party in each case before the commission in which the telephone cooperative corporation is an affected person.

Sec. 26A. APPEALS BY RATEPAYERS OF A TELEPHONE COOPERATIVE CORPORATION. (a) The ratepayers of a telephone cooperative corporation may appeal a rate decision of the corporation's governing body to the commission in the same manner the citizens of a municipality may appeal a municipality's decision under Section 26 of this Act.

(b) The petition for review must be signed by the lesser of 20,000 or 10 percent of the ratepayers of the corporation. For purposes of this subsection, each person who receives a separate bill from the corporation is a ratepayer. However, a person may not be considered to be more than one ratepayer notwithstanding the number of bills received. A petition for review is properly signed if it is signed by the person or the spouse of the person to whom the bill is sent.

(c) A telephone cooperative corporation shall provide reasonable notice to its ratepayers of any change in its rates 30 days prior to the effective date of such change. Reasonable notice may be by publication in a newspaper of general circulation in the counties served by the telephone cooperative corporation or by first class mail.

SECTION 19.07. Section 26(d)(3), Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), is amended to read as follows:

(3) The commission [~~Public Utility Commission~~] shall establish rules applicable to any party to an appeal under Subsection (c) of this section that provide for the public disclosure of financial and in-kind contributions and expenditures related to preparation of and filing of a petition for appeal and in preparation of expert testimony or legal representation for an appeal. Any party or customer who is a member of a party who makes a financial contribution or in-kind contribution to assist in an appeal of another party or customer class under Subsection (c) of this section shall, upon a finding of the commission to that effect, be required to pay the municipally owned utility a penalty equivalent in amount to two times the contribution. Nothing in this subsection shall be construed to limit the right of any party or customer to expend funds to represent its own interests following the filing of a petition with the commission [~~Public Utility Commission~~] under Subsection (c) of this section.

SECTION 19.08. Section 43(g)(4), Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), is amended to read as follows:

(4)(A) This subsection applies only to increases or decreases in the cost of purchased electricity which have been:

(i) accepted by a federal regulatory authority; or

(ii) approved after a hearing by the commission [~~Public Utility Commission of Texas~~].

(B) The commission [~~Public Utility Commission of Texas~~] may utilize any appropriate method to provide for the adjustment of the cost of purchased electricity upon such terms and conditions as the commission may determine. Such purchased electricity costs may be recovered concurrently with the effective date of the changed costs to the purchasing utility or as soon thereafter as is reasonably practical.

SECTION 19.09. Section 27(f), Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), is amended to read as follows:

(f) For the purposes of this section, "public utility" includes "municipally owned utility" and "telephone cooperative corporation [utility]."

SECTION 19.10. Section 78, Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 78. ASSESSMENTS UPON PUBLIC UTILITIES. (a) An assessment is hereby imposed upon each public utility within the commission's jurisdiction, including interexchange telecommunications carriers, serving the ultimate consumer equal to one-sixth of one percent of its gross receipts from rates charged the ultimate consumers in Texas for the purpose of defraying the costs and expenses incurred in the administration of this Act. Thereafter the commission shall, subject to the approval of the Legislature, adjust this assessment to provide a level of income sufficient to fund the commission and the office of public utility counsel. Any interexchange telecommunications carrier found dominant as to any service market under Section 100(b) or filing a petition under Section 100(f) of this Act shall be required to reimburse the Office of Public Utility Counsel for the costs of participation before the commission on behalf of residential ratepayers in any of the proceedings under Section 100 of this Act to the extent found reasonable by the commission. Recovery of costs under this section by the Office of Public Utility Counsel shall not exceed \$175,000 per annum. Nothing in this Act or any other provision of law shall prohibit interexchange telecommunications carriers who do not provide local exchange telephone service from collecting the fee imposed under this Act as an additional item separately stated on the customer bill as "Utility Gross Receipts Assessment."

(b) For purposes of this section, "public utility within the commission's jurisdiction" includes a telephone cooperative corporation.

SECTION 19.11. Section 91, Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 91. The commission [~~Public Utility Commission~~] is authorized to establish criteria and guidelines with the utility industry relating to procedures employed by the industry in terminating services to the elderly and disabled.

SECTION 19.12. Sections 98(a) and (c), Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), are amended to read as follows:

(a) The commission shall adopt and enforce rules requiring local exchange companies to establish a universal service fund to assist local exchange companies in providing basic local exchange service at reasonable rates in high cost rural areas, to reimburse local exchange companies for revenues lost as a result of providing tel-assistance service under this Act, to reimburse the telecommunications carrier providing the statewide telecommunications relay access service for the hearing-impaired and speech-impaired as authorized in Section 96A of this Act, and to reimburse the Texas Department of Human Services and the commission [~~Public Utility Commission of Texas~~] for costs incurred in implementing the provisions of this article.

(c) The commission shall:

(1) establish, in a manner that assures reasonable rates for basic local exchange service, eligibility criteria it finds necessary for participation in the universal service fund;

(2) determine which local exchange companies meet the eligibility criteria;

(3) determine the amount of and approve a procedure for reimbursement to local exchange companies of revenue lost in providing tel-assistance service under this Act;

(4) prescribe and collect fees from the universal service fund necessary to recover the costs the Texas Department of Human Services and the commission [~~Public Utility Commission~~] incurred in implementing and administering the provisions of this Article; and

(5) approve procedures for the collection and disbursement of the revenues of the universal service fund.

SECTION 19.13. (a) The powers, duties, rights, remedies, liabilities, obligations, employees, records and other property, and unexpended and unobligated appropriations of the Public Utility Commission of Texas are transferred to the Railroad Commission of Texas. The railroad commission shall review its personnel needs and shall retain only the transferred employees essential to meet those needs.

(b) Rules, orders, and forms adopted by the public utility commission continue in effect as if they were adopted by the railroad commission until amended, repealed, or otherwise superseded by subsequent action of the railroad commission.

(c) All proceedings pending before the public utility commission or its staff on the effective date of this Act are continued as proceedings before the railroad commission or its staff, as appropriate.

SECTION 19.14. The additional qualifications and other restrictions that affect a person's eligibility for membership on the Railroad Commission of Texas and that are imposed by the Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes) apply only to members of the commission who hold office for terms beginning after the effective date of this Act.

SECTION 19.15. Sections 5a, 7, 8, 9, 10, 11, 12, 13, 14, 14A, and 15, Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), are repealed.

SECTION 19.16. (a) A change in law made by this article does not affect:

(1) the validity of any action taken before the effective date of this article by the Public Utility Commission under Article VI, Public Utility Regulatory

Act (Article 1446c, Vernon's Texas Civil Statutes), regarding utility rates charged by a cooperative corporation; or

(2) an administrative or ratemaking proceeding completed before the effective date of this article.

(b) A change in law made by this article does not affect the validity of an administrative or ratemaking proceeding in progress on the effective date of this article. An administrative or ratemaking proceeding involving utility rates charged by a telephone cooperative corporation under Article VI, Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), that is in progress on the effective date of this article is covered by the law in effect on the effective date of this article, and that law is continued in effect for this purpose.

The amendment was read.

Senator Brooks moved to table the amendment.

The motion was lost by the following vote: Yeas 10, Nays 20.

Yeas: Bivins, Brooks, Brown, Harris of Tarrant, Harris of Dallas, Henderson, Krier, Leedom, Ratliff, Sibley.

Nays: Armbrister, Barrientos, Carriker, Dickson, Ellis, Glasgow, Green, Haley, Johnson, Lyon, Moncrief, Montford, Parker, Rosson, Sims, Tejeda, Truan, Turner, Whitmire, Zaffirini.

Absent: Lucio.

On motion of Senator Montford and by unanimous consent, Floor Amendment No. 17 was withdrawn.

(Senator Ratliff in Chair)

Senator Dickson offered the following amendment to the bill:

Floor Amendment No. 18

Amend C.S.H.B. 4 as follows:

(1) Strike the words "cooperative corporation" on line 69, page 89.

(2) Strike the word "telephone" on line 70, page 89; line 10, page 91; line 23, page 91; line 38, page 91; both places on line 43, page 91; line 45, page 91; line 47, page 91; line 48, page 91; line 61, page 91; line 71, page 91; line 30, page 92; and line 45, page 92.

(3) Insert the following new SECTION 19.06 at line 2, page 92, and renumber the remaining sections accordingly:

SECTION 19.06. Section 49, Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes), is amended by adding a new Subsection 49(c) to read as follows:

(c) For the purposes of Sections 54(c), 55, 59, 60, and 61 of this Act, but not otherwise, "public utility" and "electric utility" include a cooperative corporation.

The amendment was read.

Senator Moncrief moved to table the amendment.

(President in Chair)

The motion to table was lost by the following vote: Yeas 14, Nays 17.

Yeas: Brown, Ellis, Harris of Tarrant, Henderson, Krier, Leedom, Lucio, Lyon, Moncrief, Rosson, Tejeda, Truan, Whitmire, Zaffirini.

Nays: Armbrister, Barrientos, Bivins, Brooks, Carriker, Dickson, Glasgow, Green, Haley, Harris of Dallas, Johnson, Montford, Parker, Ratliff, Sibley, Sims, Turner.

Question recurring on the adoption of Floor Amendment No. 18, the amendment failed of adoption by the following vote: Yeas 15, Nays 16.

Yeas: Armbrister, Barrientos, Brooks, Carriker, Dickson, Glasgow, Green, Haley, Harris of Dallas, Montford, Parker, Ratliff Sibley, Sims, Turner.

Nays: Bivins, Brown, Ellis, Harris of Tarrant, Henderson, Johnson, Krier, Leedom, Lucio, Lyon, Moncrief, Rosson, Tejada, Truan, Whitmire, Zaffirini.

(Senator Ratliff in Chair)

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 19

Amend C.S.H.B. 4 by adding the following appropriately numbered sections:

(1) SECTION ____ Chapter 382, Health and Safety Code, is amended by adding Section 382.0191 to read as follows:

SECTION 382.0191. MAXIMIZATION OF FEDERAL FUNDS. The board shall study and evaluate methods and programs it may adopt and implement that will increase the level of federal funding for development and implementation of air pollution control standards and programs. If the board finds adoption or implementation of a program or standard will result in additional federal funds being made available to the state for air pollution control programs, the board shall proceed with adoption or implementation. The board shall perform appropriate ongoing studies and evaluations after adoption or implementation to determine the continued advantages of such standards and programs.

(2) SECTION ____ Chapter 5, Water Code, is amended by adding Section 5.1031 to read as follows:

SECTION 5.1031. MAXIMIZATION OF FEDERAL FUNDS. The commission shall study and evaluate methods and programs it may adopt and implement that will increase the level of federal funding for development and implementation of pollution control standards and programs. If the commission finds adoption or implementation of a program or standard will result in additional federal funds being made available to the state for pollution control programs, the commission shall proceed with adoption or implementation. The commission shall perform appropriate ongoing studies and evaluations after adoption or implementation to determine the continued advantages of such standards and programs.

ELLIS
BROOKS

The amendment was read and was adopted by a viva voce vote.

Senator Haley offered the following amendment to the bill:

Floor Amendment No. 20

Amend C.S.H.B. 4 by adding a new section, appropriately numbered, to read as follows:

SECTION ____ Article XV, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes), is amended by adding Section 140A to read as follows:

Sec. 140A. COMPULSORY INSPECTION OF COMMERCIAL MOTOR VEHICLES. (a) In this section:

(1) "Commercial motor vehicle" means any self-propelled or towed vehicle except a farm vehicle with a gross weight, registered weight, or gross weight

rating of less than 48,000 pounds used on a public highway to transport passengers or property when:

(A) the vehicle or combination of vehicles has a gross weight, registered weight, or gross weight rating in excess of 26,000;

(B) the vehicle is designed to transport more than 15 passengers including the driver; or

(C) the vehicle is used in the transportation of hazardous materials in a quantity requiring placarding under the regulations issued under the Federal Hazardous Materials Transportation Act (49 U.S.C. App. 1301-1813).

(2) "Commission" means the Public Safety Commission.

(3) "Federal safety regulations" means the Federal Motor Carrier Safety Regulations under Title 49, Code of Federal Regulations, Chapter III, Subchapter B, Part 393.

(b) (1) The commission shall establish an inspection program for commercial motor vehicles that meets the requirements of the federal safety regulations.

(2) Under the program, a commercial motor vehicle that is registered in this state shall be required to pass an annual inspection of all safety equipment required by the federal safety regulations.

(3) A commercial motor vehicle inspected under the program established under this section is also subject to the inspection requirements established in Section 140 of this Act.

(c) After the fifth day following the expiration of the period designated for the inspection, a person may not operate a commercial motor vehicle registered in this state unless it is equipped as required by the federal safety regulations and displays a valid certificate of inspection issued under the program established under this section.

(d) The department may issue a unique inspection certificate for a commercial motor vehicle inspected under the program established under this section.

(e) Except as provided by this subsection, Sections 141 and 142 of this Act apply to the inspection program established under this section. The fee for compulsory inspection of a commercial motor vehicle under the program established under this section is \$50. Of each fee, \$10 shall be paid to the department and shall, except as provided by Section 815.105, Government Code, be placed in the motor vehicle inspection fund for the purpose of paying the expense of administering this law.

(f) The department may require each official inspection station to make an advance payment of \$10 for each inspection certificate to be issued under this subsection, and money so received shall, except as provided by Section 815.405, Government Code, be placed in the motor vehicle inspection fund. No further payment to the department is required on issuance of a certificate. A refund for unissued certificate, shall be made in the same manner as provided for other certificate refunds.

SECTION _____ Sections 141(b) and (c-1), Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes), are amended to read as follows:

(b) Any owner of an official inspection station who by himself, agent, servant, or employee, violates any provision of Section 140, 141, 142, or 142A of this Act or any rule adopted under Section 140A of this Act, or requires the repair of any mechanism or equipment other than that set forth in the uniform standards of safety items to be inspected as established, commits an offense shall upon conviction, be punished by a fine not exceeding Two Hundred Dollars (\$200):

(c-1) Notwithstanding the provisions of Subsection (c) of Section 140 of this Act and Subsection (c) of this section, a passenger car or light truck that is sold in this state, has not been previously registered in this or another state, and on the date

of sale is of the current or the immediately preceding model year is subject to an initial inspection that expires at the end of two years, except as provided under Section 140A of this Act. The fee for compulsory inspection under this subsection is Fifteen Dollars and Seventy-five Cents (\$15.75). The Department shall require each official inspection station to make an advance payment of Ten Dollars and Seventy-five Cents (\$10.75) for a certificate to be issued under this subsection, and the money so received shall, except as provided by Section 815.405, Government Code Section 25.405, Title 110B, Revised Statutes, be placed in the Motor Vehicle Inspection Fund. No further payment may be required of a station for a certificate under this subsection. Refunds for unissued certificates shall be made in the same manner as provided for other certificate refunds. This subsection does not preclude motor vehicle emission inspections from being conducted during an initial certification period under this subsection in counties covered by a federal Environmental Protection Agency-approved inspection and maintenance program pursuant to Subsection (d) of Section 142 of this Act and the federal Clean Air Act (42 U.S.C. Section 7401 et seq.). An inspection station may waive the fee otherwise due from the owner of a vehicle inspected under this Subsection.

SECTION _____. Section 815.405, Government Code, is amended to read as follows:

Sec. 815.405. CONTRIBUTIONS TO LAW ENFORCEMENT AND CUSTODIAL OFFICER SUPPLEMENTAL RETIREMENT FUND. The Department of Public Safety shall transfer monthly to the law enforcement and custodial officer supplemental retirement fund \$2.25 of the motor vehicle inspection fee for each vehicle inspected as required under Section 141(c) or 140A of the Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes), and \$3.75 for each vehicle inspected as required by Section 141(c-1) of that Act.

The amendment was read.

Senator Brooks moved to table the amendment.

The motion was lost by the following vote: Yeas 11, Nays 19.

Yeas: Bivins, Brooks, Carriker, Dickson, Glasgow, Johnson, Leedom, Moncrief, Rosson, Truan, Turner.

Nays: Armbrister, Barrientos, Brown, Ellis, Green, Haley, Harris of Tarrant, Harris of Dallas, Henderson, Krier, Lyon, Montford, Parker, Ratliff, Sibley, Sims, Tejada, Whitmire, Zaffirini.

Absent: Lucio.

Question recurring on adoption of Floor Amendment No. 20, the amendment was adopted by a viva voce vote.

RECORD OF VOTE

Senator Brooks asked to be recorded as voting "Nay" on the adoption of the amendment.

(President in Chair)

VOTE ON ADOPTION OF FLOOR AMENDMENT NO. 3 RECONSIDERED

On motion of Senator Brooks and by unanimous consent, the vote by which Floor Amendment No. 3 was adopted was reconsidered.

Question—Shall Floor Amendment No. 3 be adopted?

On motion of Senator Brooks and by unanimous consent, Floor Amendment No. 3 was withdrawn.

Senator Brooks offered the following amendment to the bill:

Floor Amendment No. 21

Amend Section 1.67(b) of Article 1 of C.S.H.B. 4 by striking the period (“.”) at the end thereof and adding the following:

“; provided, however, that the provisions of Section 2(d) of Article 9101, Revised Statutes, shall apply to rules of the entities transferred to the Texas Department of Licensing and Regulation in Subsection (a) of this section.”

The amendment was read and was adopted by a viva voce vote.

Senator Armbrister offered the following amendment to the bill:

Floor Amendment No. 22

Amend C.S.H.B. 4 as follows:

(1) Strike SECTION 1.56 of the bill (Committee Printing, page 14, lines 8 through 40) and renumber the following sections accordingly.

(2) In SECTION 1.57 of the bill, in added Section 5(f), The Plumbing License Law (Article 6243-101, Vernon's Texas Civil Statutes), strike “(1) the irrigators law, Chapter 197, Acts of the 66th Legislature, 1979 (Article 8751, Vernon's Texas Civil Statutes);” (Committee Printing, page 14, lines 46 and 47) and renumber the following subdivisions of that section accordingly.

(3) Strike SECTION 1.58 of the bill (Committee Printing, page 14, lines 53 through 60) and renumber the following sections of the bill accordingly.

(4) Strike SECTION 1.59 of the bill (Committee Printing, page 14, lines 61 through 65) and renumber the following sections of the bill accordingly.

(5) Strike Subsection (a), SECTION 1.73 of the bill (Committee Printing, page 23, lines 7 through 17).

(6) In SECTION 1.73 of the bill, strike “(b)” (Committee Printing, page 23, line 18).

(7) Strike SECTION 1.74 of the bill (Committee Printing, page 23, lines 34 through 39) and renumber the following sections of the bill accordingly.

(8) In SECTION 1.66 (Committee Printing, page 19, lines 58 through 71 and page 20, lines 1 through 12), correct the internal section references appropriately after the sections of the bill are renumbered.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Glasgow and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 4 ON THIRD READING**

Senator Glasgow moved that the Constitutional Rule and Senate Rule 7.20 requiring bills to be read on three several days be suspended and that C.S.H.B. 4 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

RECESS

On motion of Senator Brooks, the Senate at 12:53 p.m. took recess until 1:30 p.m. today.

AFTER RECESS

The Senate met at 1:30 p.m. and was called to order by Senator Brooks.

MESSAGE FROM THE HOUSE

House Chamber
August 2, 1991

HONORABLE BOB BULLOCK
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

The House has refused to concur in Senate amendments to H.B. 4 and has requested the appointment of a Conference Committee to consider the differences between the two Houses. The following have been appointed on the part of the House: Laney, Chair; Crawford, Jones, Saunders, Seidlits.

H.B. 169, Relating to nonsubstantive additions to and corrections in enacted codes, including the nonsubstantive codification of various laws omitted from enacted codes, and to conforming codifications enacted by the 72nd Legislature, Regular Session, to other Acts of that legislature.

Respectfully submitted,

BETTY MURRAY, Chief Clerk
House of Representatives

CONFERENCE COMMITTEE ON HOUSE BILL 4

Senator Glasgow called from the President's table for consideration at this time the request of the House for a Conference Committee to adjust the differences between the two Houses on H.B. 4 and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the Conference Committee on H.B. 4 before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Glasgow, Chair; Rosson, Moncrief, Carriker, Bivins.

HOUSE BILL ON FIRST READING

The following bill received from the House was read the first time and referred to the Committee indicated:

H.B. 169, To Committee on Administration.

MEMORIAL RESOLUTION

H.C.R. 15 - (Brooks): In memory of Jeffery Dean Ginn of Pasadena.

CONGRATULATORY RESOLUTIONS

S.R. 131 - By Sims: Honoring Mrs. Frieda Beyer of Fredericksburg on the occasion of her 98th birthday.

S.R. 132 - By Sims: Extending congratulations to Mr. and Mrs. K. B. Watson of San Angelo on the occasion of their 50th wedding anniversary.

S.R. 133 - By Sims: Extending congratulations to Bob and Pauline Sims of Alpine on the occasion of their 50th wedding anniversary.

S.R. 134 - By Sims: Extending congratulations to Mr. and Mrs. D. W. Hair of San Angelo on the occasion of their 50th wedding anniversary.

S.R. 135 - By Sims: Extending congratulations to Mr. and Mrs. Truit Clark of Midland on the occasion of their 60th wedding anniversary.

S.R. 136 - By Sims: Extending congratulations to Mr. and Mrs. Guy Jamieson of Midland on the occasion of their 50th wedding anniversary.

S.R. 137 - By Sims: Extending congratulations to Mr. and Mrs. Albert Mason of Kerrville on the occasion of their 50th wedding anniversary.

S.R. 138 - By Carriker: Honoring Dr. Arthur Frederick Beyer, professor in the Department of Biology at Midwestern State University in Wichita Falls, for his extraordinary contributions to his community and his state.

S.R. 139 - By Barrientos: Expressing pride and admiration for the unparalleled acts of heroism of Austin firefighters Bryan Noack and Steve Tittle.

S.R. 140 - By Barrientos: Recognizing Robb Wagner for his recent selection as a winner of The Jefferson Award which is bestowed by the American Institute for Public Service.

S.R. 141 - By Turner: Extending congratulations to Mr. and Mrs. R. L. Gresham of Madisonville on the occasion of their 60th wedding anniversary.

S.R. 142 - By Turner: Honoring Rosie Terry Mackey of Cameron on the occasion of her 100th birthday.

S.R. 143 - By Turner: Extending congratulations to Mr. Willie Johnson of Cameron on the occasion of his 100th birthday.

S.R. 144 - By Lucio: Honoring Fire Marshal Abel Zapata of Brownsville on his retirement.

S.R. 145 - By Tejeda: Commending the gallant members of our armed forces who have courageously defended their country with their lives and have earned the Purple Heart by their heroic actions.

ADJOURNMENT

On motion of Senator Carriker, the Senate at 1:53 p.m. adjourned until 11:30 a.m. Monday, August 5, 1991.

APPENDIX

Sent to Governor
(August 1, 1991)

S.B. 2